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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,561	04/06/2007	Torstein Ljungmann	930060-2012	1584

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EXAMINER

CLEVELAND, TIMOTHY C

ART UNIT	PAPER NUMBER
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1797

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/582,561	Applicant(s) LJUNGMANN ET AL.	
	Examiner Timothy Cleveland	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4-6, 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claims 4-6, 8 and 9, it is unclear as to what specific apparatus structure constitutes the recited arrangement that enables the dewaxing function. The “treatment apparatus” does not have any positively recited structure. Therefore, the claims are vague and do not point out and distinctly claim the subject matter of the invention.

4. In claims drawn to an apparatus statutory class of invention, the structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device (see MPEP § 2172.01). Furthermore, a feature that is taught as critical in the specification should be recited in the claims (see MPEP § 2164.08c).

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which

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was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not have support for the amendment of “wherein each step of the step-by-step heating course, or each step of the step-by-step cooling course does not require any user input or interaction”. No implicit or explicit support is found in the instant specification, and user interaction is needed to at least start the heating course (see page 6, lines 35-37). Also see MPEP § 2173.05(i).

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 1, 2, 4, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tacha (US Patent 6,580,056) in view of Lohr et al. (US Patent 3,800,778) and further in view of Smrke (US Patent 5,951,900).
7. In regards to claim 1, Tacha teaches a pressure cooker (10) for the heating of biological specimens (abstract). The pressure cooker (10) has a temperature sensor (29), a pressure sensor (pressure gauge 13) attached to the lid, and a control unit (controller 14) that can perform a programmed step-by-step heating or cooling course with a programmed time duration on each temperature step (col. 4 lines 14-28).
8. Tacha does not teach a vent valve attached to the pressure cooker or a control unit wherein each step of the heating course does not require any user input.

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9. In the analogous art of pressure cookers for food preparation, Lohr et al. teaches a pressure cooker (steam cooker 1) with a vent valve (safety valve 7 or regulator device 8) for the benefit of preventing the pressure cooker from rupturing by reaching dangerously high pressure.

10. Lohr et al. does not teach a control unit wherein each step of the heating course does not require any user input.

11. In the analogous art of temperature in cooking devices, Smrke teaches an automatic temperature measurement based power control device which consists of a control unit (central electronic unit 22). The unit can be programmed with temperature and time constants for the purpose of controlling a food processing operation. See abstract and col. 3, lines 34-46.

12. It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the apparatus of Tacha with the safety valve of Lohr et al. and the control unit of Smrke for the increased safety and process control of the pressure cooker.

13. In regards to claim 2, Tacha teaches that the control unit comprises a processor (31) that controls the temperature courses by means of a data program (see Figures 5 and 7; col. 3 lines 45-54; col. 3, line 64 – col.4 line 13).

14. In regards to claims 4 and 8, Tacha teaches a pressure cooker (10) and a control unit (controller 14). The pressure cooker (10) and the control unit (controller 14) are integrated for the treatment of biological specimens (abstract). Therefore, the combination meets the structural limitations of the treatment apparatus. The dewaxing

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of tissue specimens constitute a recitation of intended use, and is not given patentable weight.

15. Claims 3, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tacha (US Patent 6,580,056) in view of Lohr et al. (US Patent 3,800,778) further in view of Smrke (US Patent 5,951,900), and even further in view of Kwon et al. (US Patent 6,283,015).

16. In regards to claim 3 and 7, Lohr et al. teaches attaching a vacuum pump (6) to a pressure cooker (steam cooker 1) as to lower the boiling temperature of water to steam foods (col. 2 lines 42-52).

17. Lohr et al. does not teach that the vacuum pump (6) is connected to the pressure cooker (steam cooker 1) via an electric valve. However, Lohr et al. does provide a valve (pressure regulator 8) connected to the pressure cooker for the control of pressure in the unit (col. 2 lines 1-9). Furthermore, Lohr et al. teaches that the vacuum pump can automatically control the pressure level in the in the pressure vessel (2) (col. 2 lines 41-52)

18. In the analogous art of pressurized cooking vessels, Kwon et al. teaches the use of an electric valve (solenoid valve 20; see col. 2 lines 31-39) for the benefit of venting of steam from within the pressurized cooking vessel (10).

19. It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the previous combination of claim 1 or 2 along with the vacuum

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pump of Lohr et al. with the electric valve of Kwon et al. for the purpose of controlling the pressure level in the pressure cooker.

20. In regards to claim 9, Tacha teaches a pressure cooker (10) and a control unit (controller 14). The pressure cooker (10) and the control unit (controller 14) are integrated for the treatment of biological specimens (abstract). Therefore, the combination meets the structural limitations of the treatment apparatus. The dewaxing of tissue specimens constitutes a recitation of intended use, and is not given patentable weight.

21. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tacha (US Patent 6,580,056) and Lohr et al. (US Patent 3,800,778) and Smrke (US Patent 5,951,900) and further in view of Ljungmann (US Patent 6,017,495) and even further Christensen et al. (US Patent 6,544,798).

22. In regards to claim 5, Tacha teaches a treatment apparatus (combination of pressure cooker 10 and controller 14) that is heated by a hot plate (heating element 20, see figures 2 and 3).

23. Tacha, Lohr et al., and Smrke do not teach a revolving unit, rotatable plate, vessels, receiving baskets, loading magazine, motor, or hoist device.

24. In the analogous art of tissue staining devices, Ljungmann teaches a device for staining large quantities of tissue samples on microscope slides through the use of containers that can hold multiple slides for the benefit of high production capacity. See abstract and col. 1 lines 61-64. Ljungmann teaches vessels (5) for receiving baskets (7) containing microscope slides (abstract), a loading magazine for baskets

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(fetching/unloading stations 1), a driving motor (col. 3 lines 62-64), and a hoist device (17). See Figure 2. The operation of the hoist device constitutes a statement of intended use and is not given patentable weight.

25. Ljungmann does not teach the use of a revolving unit or a revolving plate.

26. In the analogous art of tissue sample preparation devices, Christensen et al. teaches an automated tissue preparation device that will remove embedding material from the sample and stain the sample. Christensen et al. teaches the use of a revolving unit (carousel 34) and a rotatable plate (tray 29) driven by a motor (col. 6 line 8) for the heating of the microscope slides on a hot plate (thermal platform 50). See Figures 1 and 4.

27. It would have been obvious for one of average skill in the art to combine the combination of claim 4 with the structure of Ljungmann and the revolving unit of Christensen et al. for the purpose of pressure cooking large quantities of tissue samples an equal amount.

Conclusion

28. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

29. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy Cleveland whose telephone number is (571)270-5041. The examiner can normally be reached on Monday-Thursday 7:30-5 EST alt Friday 8:30-4 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Griffin can be reached on (571)272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy Cleveland/

/Walter D. Griffin/
Supervisory Patent Examiner, Art Unit 1797